

No. 12,868

IN THE

United States Court of Appeals
For the Ninth Circuit

RAYMOND WRIGHT,

Appellant,

VS.

UNITED STATES OF AMERICA,

Appellee.

BRIEF FOR APPELLANT.

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STATEMENT.

Appellant, Raymond Wright, and his wife, Verne-
stine Wright, were indicted by the Grand Jury for the
Fourth Division for the Territory of Alaska, for felo-
niously inducing and procuring a woman one, Vanada
Donaby, for the purpose of prostitution in violation of
Section 65-9-21 of the Alaska Compiled Laws Anno-
tated, 1949. At the close of the appellee's case the
United States Attorney moved that the indictment be
dismissed as to the defendant Vernestine Wright, and
the motion was granted. (T.R. p. 85.)

The appellant, Raymond Wright, was convicted of
the crime charged in the indictment and was sen-
tenced to serve a term of three years in the peni-
tentiary at McNeil's Island, Washington.

The principal objections of appellant are to the rulings of the trial Court in refusing to admit competent and relevant testimony and refusing to permit sufficient cross-examination of the witnesses produced on behalf of the government.

The principal witnesses on behalf of the government were William Jones and Nathaniel Wood who were accused of stealing \$800.00 from appellant, and they were arrested upon a warrant issued based upon a criminal complaint filed by appellant, and they, together with Vanada Donaby, the other witness in the case on behalf of the government, were arrested near the Canadian border and returned to Fairbanks, Alaska, and confined in the Federal Jail for a period of 4 or 5 days before being released. The attorneys for appellant were unable to find out why they were released or exactly what disposition of the case was made, although it was the intention of the appellant during the trial of the case to show that they had stolen the money, and that was the principal reason why they appeared as witnesses against appellant, and appellant hoped to show that there was some deal made on account of the evidence which they furnished in order to secure their discharge from custody.

POINTS AND AUTHORITIES.

“The fact that a witness is interested in the result of the action or proceeding in which he testifies, or is biased or prejudiced in favor of or against any of the parties thereto, is proper to be

shown and considered as bearing on the credit which should be accorded to his testimony, and where the interest or bias is denied by the witness, it may be shown by the testimony of others, and even where such interest or bias is admitted, the extent of it may be shown."

70 *C.J.*, Section 1144, 937.

"In prosecution for transportation of intoxicating liquor, exclusion of evidence tending to show ill feeling of prosecuting witness toward defendants was error.

"In criminal case anything tending to show ill feeling, bias, and motive of witness is competent evidence.

"Motives operating on mind of witness when he testifies are never immaterial, and adverse party may prove acts and declarations of witness tending to show ill feeling, bias, motive, and animus."

Smith et al. v. State, 291 S.W. 544;

Hostetter Co. v. Bower, 74 Fed. 235;

Sunderland v. United States, 19 F. (2d) 212,
Subparagraph 12.

"Where a witness has testified for the prosecution, his fair and full cross-examination on the suggestions of his examination in chief is an absolute right of the defendant, and a denial of that right is prejudicial error."

Gallaghan v. United States, 299 Fed. 172.

ARGUMENT.

One of the witnesses for appellee, Nathaniel Wood, testified that besides himself, Vanada Donaby and William Jones, a girl by the name of Willa May Walters was supposed to have left with them when they left Fairbanks, and when Wood and Jones were arrested for grand larceny. Willa May Walters was called as a witness on behalf of appellant and she testified that Vanada Donaby, William Jones and Nathaniel Wood talked to her about stealing, at which time she was interrupted by the United States Attorney and her answer was stricken by the Court. She was then asked if these same parties talked to her about stealing a safe or a little strong box in which the defendant, Raymond Wright, kept his money. Objection was made and the Court sustained the objection, after which offer of proof was made to show that the witness knew that Nathaniel Wood and William Jones planned to steal the money in the safe belonging to appellant. (T.R. pp. 105, 106, 107.) Appellant was prohibited by the Court upon objection by the United States Attorney from testifying as to when he swore to the complaint against William Jones and Nathaniel Wood charging them with larceny.

The Court limited the testimony on cross-examination in regard to the larceny of the money by the witnesses, Wood and Jones. (T.R. pp. 81, 82.) William Jones was permitted to testify over the objection of appellant that he did not steal \$800.00 or any amount, and appellant was refused permission to show that he and Nathaniel Wood had planned to steal the money.

Considering the rulings of the Court and the fact that appellant was unable to fully show the bias and prejudice of the witnesses, Wood and Jones, the jury undoubtedly believed that they had a right to give greater weight to their testimony than they would have believed otherwise if appellant had been allowed his rights under the rules of the admission of evidence and cross-examination of government witnesses.

In view of the Court's rulings in this case in regard to the admission of evidence and under the authorities, it would seem that the judgment of conviction should be reversed and a new trial ordered.

Dated, Fairbanks, Alaska,
July 6, 1951.

Respectfully submitted,
JULIEN A. HURLEY,
Attorney for Appellant.

